

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

NORMAN E. LACEY)
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Plaintiff,)
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v) **CIVIL ACTION**
CITY OF AUBURN,) **NUMBER:**
) **06-cv-1145-MEF**
)
)
Defendant)

RESPONSE TO SHOW CAUSE ORDER

Comes now, undersigned counsel for Norman E. Lacey and responds to the Court's Show Cause Order dated January 23, 2008. Counsel apologizes for not filing Notification Concerning Settlement and Mediation by January 9th, 2008, and requests that he not be sanctioned for the following reasons:

1. Scheduling issues and unusual number of summary judgment filings on counsel's two person office caused the deadline to file the Notification Concerning Settlement and Mediation to be missed. At the time the report was due, counsel was preparing a summary judgment response in this matter which had to be filed by January 14, 2007.

2. In addition, the very same week counsel was having to respond to summary judgment in *Jenkins v. Pfizer*, 06-0688-REL, pending in the Western District of Missouri. That response had to be filed no later than January 18, 2008.

3. Counsel also has three summary judgment motions in *Chapman et al v. Imerys*, 06-CV-01972 VEH, pending in the Northern District of Alabama.

4. Between January 7, 8, 22, 23, Mr. Cooks, along with Lee Winston, defended 10 depositions in *Coleman et al v. Buffalo Rock*, 07-915-VEH, pending in the Northern District of Alabama

5. Counsel apologizes to the Court for the failure to file the required Notice Concerning Settlement Conference and Mediation.

6. Lee Winston is filing this response to the Show Cause Order because Mr. Cook's father, James Cooks, was unexpectedly hospitalized on an emergency basis at St. Vincent's Hospital on Thursday, January 24, 2008 and is undergoing cardiac surgery today. Mr. Cooks has been with his father since the hospitalization.

Wherefore premises considered, plaintiff's counsel apologizes and requests that he not be sanctioned for failing to file the required Notice Concerning Settlement and Mediation.

Respectfully submitted,

s/Lee Winston
Lee D. Winston
Attorney for Plaintiff

OF COUNSEL:

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CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of January, 2008, I caused a copy of the foregoing to be served via the Court's Electronic Filing System on the following:

Randall Morgan
Hill, Hill, Carter, Franco,
Cole & Black, P.C.
425 South Perry Street
Montgomery, AL. 36104

DONE this the 28 day of January 2008.

s/Lee Winston
Of Counsel